

Attorney's Docket No. : 1828

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/768,504
Filed: January 30, 2004
Pub. No.: US 2004/0172710 A1
Title: Soybean Variety XB44D04

Confirmation No.: 6876
Group Art Unit:
Examiner:
Pub. Date: September 2, 2004

October 20, 2004

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OCT 20 2004

**REQUEST FOR A CORRECTED OR REVISED PATENT APPLICATION
PUBLICATION UNDER 37 C.F.R. §1.221(b)**

Sir:

Certain errors appear in the patent application publication identified above. These errors were through mistakes incurred by the Patent Office. The specification that was submitted to the Patent Office contained a paragraph entitled "Deposits". Said paragraph was omitted in the published application. Applicant therefore requests a corrected patent application publication under 37 C.F.R. §1.221(b), for which there is no fee.

For the convenience of the office personnel, the necessary corrections have been set forth on the attached pages no. 3 & 4 marked "Deposit". Said attachment originally appeared in the submitted application just before the claim section and should appear at same location in the published application.

It is respectfully requested that a corrected patent application publication be granted for the above-identified application, in accordance with 37 C.F.R. §1.221(b). This request is made in order to correct the mistakes incurred through the fault of the Patent Office.

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It is not believed that fees are required, however, any required fees therefore are hereby authorized to be charged to Deposit Account No. 16-1852.

Respectfully submitted,



Steven Callistein
Attorney for Applicant(s)
Reg. No.

PIONEER HI-BRED INTERNATIONAL, INC.
Corporate Intellectual Property
7100 N.W. 62nd Avenue
P.O. Box 1000
Johnston, Iowa 50131-1000
Phone: (515) 254-2823
Facsimile: (515) 334-6883

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DEPOSITS

Applicant(s) will make a deposit of at least 2500 seeds of Soybean Variety XB44D04 with the American Type Culture Collection (ATCC), Manassas, VA 20110 USA, ATCC Deposit No. _____. The seeds deposited with the ATCC on _____ will be taken from the deposit maintained by Pioneer Hi-Bred International, Inc., 800 Capital Square, 400 Locust Street, Des Moines, Iowa 50309-2340 since prior to the filing date of this application. Access to this deposit will be available during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make the deposit available to the public pursuant to 37 CFR 1.808. This deposit of Soybean Variety XB44D04 will be maintained in the ATCC depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. Additionally, Applicant(s) have or will satisfy all the requirements of 37 C.F.R. §§1.801 - 1.809, including providing an indication of the viability of the sample upon deposit. Applicant(s) have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant(s) do not waive any infringement of their rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.).

All publications, patents and patent applications mentioned in the specification are indicative of the level of those skilled in the art to which this invention pertains. All such publications, patents and patent applications are incorporated by reference herein for the purpose cited to the same extent as if each was specifically and individually indicated to be incorporated by reference herein.

The foregoing invention has been described in detail by way of illustration and example for purposes of clarity and understanding. As is readily apparent to one skilled in the art, the foregoing are only some of the methods and compositions that illustrate the embodiments of the foregoing invention. It will be apparent to those of ordinary skill in the art that variations, changes, modifications and alterations may be

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applied to the compositions and/or methods described herein without departing from the true spirit, concept and scope of the invention.

**PIONEER HI-BRED INTERNATIONAL, INC.
CORPORATE INTELLECTUAL PROPERTY DEPARTMENT**

FAX TRANSMISSION

**7100 N.W. 62nd Avenue
P.O. Box 1000
Johnston, Iowa 50131-1000**

**Phone: (515) 254-2823
Fax: (515) 334-6883**

TO: Mail Stop PG-PUB
Commissioner for Patents

FROM: Steven Callistein

RE: Soybean Variety XB44D04
Case 1793

DATE: 10/20/04 **FAX NUMBER:** (703) 305-8568

NUMBER OF PAGE(S) FOLLOWING THIS SHEET: 1

COMMENTS:

1. Request for A Corrected or Revised Patent Application – 4 pages

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